

**PUBLIC WORKS**

**AND**

**PUBLIC TRANSPORTATION COMMITTEE**

**of the**

**SUFFOLK COUNTY LEGISLATURE**

**Minutes**

A regular meeting of the Public Works and Public Transportation Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Tuesday, **January 11, 2005**.

**MEMBERS PRESENT:**

Legislator Allan Binder • Chairman

Legislator Peter O'Leary • Vice•Chairman

Legislator John Kennedy

Legislator Brian Foley

Legislator Ricardo Montano

**MEMBER NOT PRESENT:**

Legislator Angie Carpenter • Excused Absence

**ALSO IN ATTENDANCE:**

Mea Knapp • Counsel to the Legislature

Jim Spero • Budget Review Office

Kevin Duffy • Budget Review Office

Charles Bartha • Commissioner • DPW

Bill Shannon • Highway Department • DPW

Leslie Mitchel • Deputy Commissioner • DPW

Alexandra Sullivan • Chief Deputy Clerk • Legislature

Bill Faulk • Aide to P.O. Caracappa

Ben Zwirn • County Exec's Office

Lynne Bizzarro • County Attorney's Office

All Other Interested Parties

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MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

**(\* THE MEETING WAS CALLED TO ORDER AT 1:35 P.M.\*)**

**CHAIRMAN BINDER:**

All rise for the Pledge of Allegiance led by Legislator O'Leary.

### **SALUTATION**

**CHAIRMAN BINDER:**

Okay. The first meeting of the year of the Public Works and Public Transportation Committee will come to order. We don't have any correspondence, I don't think we have any public hearings.

The Presiding Officer was called and asked why was I made the Chairman of this Committee, and the only wn answer that I can give you is because I can be. We will leave it at that. I was kind the interested that New York Times was interested in why I would chair the committee. I want to thank the members for being here. We have a couple more members I'm sure still to come. I

don't know if I have any cards. I don't think we have any. No cards.

**LEG. O'LEARY:**

Mr. Chair.

**CHAIRMAN BINDER:**

Legislator O'Leary.

**LEG. O'LEARY:**

I'd just like to put on the record that Legislator Carpenter has requested to be excused for this particular meeting. She is a member of the committee.

**CHAIRMAN BINDER:**

Okay then. I'm sure there's a good reason for not being here. Let me ask •• Legislator Foley.

**LEG. FOLEY:**

Thank you, Mr. Chairman. And as former chair of the committee, I'm sure Legislator O'Leary has similar sentiments, we welcome you as the Chair of the Committee. We know that if you need guidance from former chairs, we're here ready, willing and able to be of assistance. So it's one of the committees where former chairs stay on the committee. Other committees, once the chair has been completed, they move on to other committees. But here, there's been a high retention

rate, if you will, and we stand ready to be of assistance.

**CHAIRMAN BINDER:**

Well, I appreciate that. In that my 15, now my 16th year in the Legislature, I had not even served on the committee. I've done so much in the Legislature on this, I thought before I leave, it was important to get my feet wet. And I don't just •• the real problem is I don't get to talk to Charlie Bartha enough so this is going to be my opportunity. Let me ask the Commissioner, if he would and anyone else he wants to come up, if he has anything we want to •• he wants to discuss before we get into the resolutions. We can introduce yourselves to each other. Obviously, Mr. Commissioner, we are going to have a very interesting year. There are a lot of large issues from the Southwest Sewer District to Sprungs and the jail and other things that are going on around the County that are going to need attention this year. So actually it's the reason why I'm excited to have the opportunity in my last year to be involved in these issue. And I'm looking for to it, looking forward to working with you as •• obviously peripherally, even if not as a member of committee, I've been working with you a long time.

**COMMISSIONER BARTHA:**

Well, we certainly share that sentiment. You and I have worked together for 16 years that we have both been here. I look forward to working with you on a number of the big issues that we have. You certainly put your finger on the biggest, Southwest Sewer District and the jail are the two big items facing the department and the County.

**CHAIRMAN BINDER:**

All right. If there's •• i don't know if you have any ••

**COMMISSIONER BARTHA:**

No. I just stand prepared to answer whatever questions on the resolutions or whatever format you'd like to follow at committee meetings.

**CHAIRMAN BINDER:**

Let me start with letting Legislators have at you a little bit before we go into the resolutions this way we can do the questions and answers first. Legislator Viloría•Fisher.

**LEG. VILORIA•FISHER:**

Thank you, Mr. Chair. And actually my question is regarding one of the Introductory Resolutions, and that's 2298, which is at SUNY Stony Brook, the sewer •• improvements to the sewer district. Okay. I just wanted to ask you, Charlie, as you know, there has been •• what is the purpose of these improvements or expansion, is it for the university use?

**COMMISSIONER BARTHA:**

It's for university usage and to reduce the nitrogen discharge.

**LEG. VILORIA•FISHER:**

Now, is it expanding because of the proposal to construct a hotel there? Is this part of that program?

**COMMISSIONER BARTHA:**

I'd have to check with Ben to see whether that is on the list of flows that we are trying to accommodate.

**MR. WRIGHT:**

No. The university had asked for some expansion, and the consultant will be looking at what their needs will be for the next 20 years. The hotel had come up at one time, but, you know, the way we formatted the Request for Proposal was to look at the campus needs for next, you know, needed time period.

**LEG. VILORIA • FISHER:**

Okay. So then what you are saying is that this proposal would accommodate the construction of a hotel, that was included in ••

**MR. WRIGHT:**

Yes. The number that we had was starting out at 500,000 gallons per day, which would be for the campus needs for a long period. It could accommodate a hotel if that went ahead. It could be that the results of the engineering study will show that it's •• you know, that much flow isn't needed.

**LEG. VILORIA • FISHER:**

And you are saying that engineering study is currently ongoing?

**MR. ZWIRN:**

No. This resolution is to appropriate funds to enter into that engineering contract.

**LEG. VILORIA • FISHER:**

I see. Okay. All right. I thought it was for the actual expansion. It's for the study?

**MR. WRIGHT:**

Yes. And that expansion, you know, whenever the engineering study is done, would probably be in 2007 some time, the beginning of construction.

**LEG. VILORIA • FISHER:**

Okay. Will it be coming back to us when the actual expansion ••

**MR. WRIGHT:**

Yes. Yes. The funding here is purely engineering.

**LEG. VILORIA • FISHER:**



Okay. And when the university is planning expansions or making applications to our Health Department, I know this is out of your department, but do we feel that we in the County have as much input or local authority with the state entity, with the university, as we do with other entities making applications?

**MR. WRIGHT:**

It is a sewer district, so we •• you know, the Commissioner is the Administrative Head of that sewer district, and we have to issue permits for any connection to the system.

**LEG. VILORIA • FISHER:**

Okay. So you have full authority. You don't feel that the fact that it's a state university impacts on your ability to regulate?

**MR. WRIGHT:**

I think we are on the same page with them now. A few years ago, there were some buildings that were started before they came to us with applications to connect, and I think we're over that now, and that they understand the process.

**LEG. VILORIA • FISHER:**

Okay. So if they were to go forward with the hotel construction, you would feel that you would have the authority, that you wouldn't feel superceded by the fact that they are a state

university?

**MR. WRIGHT:**

Yes. Actually, the other state agency, DEC, governs the SPEEDYs permit that, you know, is our responsibility. So we do feel that way.

**LEG. VILORIA•FISHER:**

Okay. There's concern in the community regarding the local authority in the event that there is construction of a hotel. So this is why I'm asking •• I'm proceeding with this line of questioning, because I want to be certain that we on the local level have the oversight that we need to protect the health and quality of life of the neighbors surrounding the university. Thank you.

**CHAIRMAN BINDER:**

Legislator Foley.

**LEG. FOLEY:**

Thank you, Mr. Chairman. As a follow up to Legislator Viloria•Fisher's questions. When I read the backup, there's a November 22, '04 letter from Richard Mann is to you, Ben. By approving this engineering project, what I would call it, because this is to enter into the engineering phase, correct?

**MR. WRIGHT:**

Yes. We wanted this letter to make sure that if there were any increases in expenditures that were necessary, that the •• you know, whatever the share was to the university would be •• you know, they would be committed to doing that, and this letter does make that commitment.

**LEG. FOLEY:**

Are we then giving •• by approving this, are we then giving a green light to the expansion and improvements of the facility?

**MR. WRIGHT:**

No. I mean, that is part of the engineering evaluation, is to sit down with Public Works as well as the university and see what their needs are. And, you know, the other part of this resolution is to reduce nitrogen to the Sound, which means that we can only discharge so many gallons a day to the Long Island Sound. The rest has to be recharged on•site, and we're looking at options with how to do that recharge.

**LEG. FOLEY:**

Okay.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN BINDER:**

Legislator Kennedy.

**LEG. KENNEDY:**

Charlie, I just have a quick question about your memo from December 13th. Just explain to me, if you would, in the second paragraph there you talk about effluent limits, preclusions, about the nitrogen discharge, 1.2 million gallons a day, I guess, is what, the max that can be discharged into the harbor? The balance is what has to be processed or recharged. What does that mean?

**COMMISSIONER BARTHA:**

They would have to be recharged. Everything has to be treated. What gets discharged to the Sound through Port Jeff Harbor, we have limitations on how much nitrogen is allowed to be discharged into the Sound through the harbor, and it's a total poundage, not as when you discharge to the Ocean, where it's in milligrams per liter. This is total pounds. So what we are seeking to do is the SUNY treatment plant was constructed at that time when ten milligrams per liter was the state of the art technology. Now the technology is such that we can reduce the nitrogen to as low as 4 milligrams per liter. So that will allow us to discharge additional effluent to the Sound. But there's also an expansion of the Port Jeff sewage treatment plant that is, you know, on the books. So we will looking to recharge some of the treated effluent on the campus at SUNY.

**LEG. KENNEDY:**

So what that means then is if you are recharging, in other words, it's in those holding pools and it percolates and remains on the property and doesn't wind up being •• I'm just a little

confused. I mean, 1.2 and 1.8, we've got three mill. Of that, is there a total three mill discharged, 1.2 treated and one point •• 1.2 conforms and 1.8 gets recharged? That's the part I'm trying to understand.

**COMMISSIONER BARTHA:**

Everything conforms. Everything is treated and it's just where you dispose of it. Some of it will be disposed in recharge pits on the University Campus, which is the situation in most of our sewage treatment plants, the water is recharged into the ground after it's treated.

**LEG. KENNEDY:**

Do you have any •• I mean, is there a preference or is there something that you look to do from a configuration perspective, benefits, drawbacks, anything like back?

**COMMISSIONER BARTHA:**

Preference is ocean discharge, because it's the lower standard of treatment. Environmentally discharged into the groundwater after treatment is probably the best, because it maintains the level of the groundwater.

**LEG. KENNEDY:**

What does it do to the cost of the project?

**COMMISSIONER BARTHA:**

It costs more to treat the effluent to a higher level. However, because of the •• other the last several years, the efforts to clean up Long Island Sound are such that the level of treatment required to discharge water into Long Island Sound is higher than it is to discharge water back into the groundwater.

**LEG. KENNEDY:**

I'm sorry. One more time with that.

**COMMISSIONER BARTHA:**

It's a higher level of treatment. It's more costly and a higher level of treatment to discharge water into the Long Island Sound than it is to treat water to discharge into the groundwater.

**LEG. KENNEDY:**

Because the percentage of nitrogen •• I'm sorry, hold on a second. The percentage of nitrogen that's going in is less?

**COMMISSIONER BARTHA:**

That's correct.

**LEG. KENNEDY:**

Okay. All right. Okay. I guess I got it. Thank you.

**CHAIRMAN BINDER:**

Any other questions? Legislator O'Leary.

**LEG. O'LEARY:**

Good afternoon, Commissioner. Ben, how are you? There's questions that come up in Budget and Finance with respect to some of the resolutions that are before us today, 2299 through 2304, specifically has to do with the use of the monies within the 477 Fund. And as a result of the questions that were posed during Budget and Finance, there's a question that has arisen whether or not these monies that are being appropriated for the storm remediation improvements are being used for specifically those purposes or if there are other additional projects that are being used with respect to this 477 Fund. Is it your understanding that the monies that come out of the 477 Fund are used specifically and exclusively for water quality such as storm remediation projects, etcetera?

**COMMISSIONER BARTHA:**

Yeah. These projects that we're proposing here are involved in water quality improvement by •• as you said, there are six different resolutions, six different locations, but each of them involve elimination of direct discharge of stormwater into surface water by using recharge systems, either leaching basins or recharge beds, such as what some people refer to as a sump.

**LEG. O'LEARY:**

Well, as I said, there was a series of questions that came up in Budget and Finance with respect

to the appropriations and utilizations of monies in the 477 account fund. And as a result of that, because of that pending report from the County Executive's Office, the budget people there, back to Budget and Finance, I'm going to be asking the Chair if he would be supportive of tabling these resolutions until such time as that report has been finalized and brought before Budget and Finance. There's a question of whether or not the monies in the 477 Fund are used specifically for that purpose.

**COMMISSIONER BARTHA:**

I can give you information that will hopefully help you with that that gives a summary of what each project involves.

**LEG. O'LEARY:**

That would be helpful. As a matter of fact, that would probably be helpful during the Budget and Finance meeting when the County Executive's budget people come back with hopefully a report that will explain to us just what those monies are being utilized for.

**CHAIRMAN BINDER:**

Legislator Vilorio•Fisher.

**LEG. VILORIA•FISHER:**

I'm not certain if I should be asking this of Legislator O'Leary or the Commissioner, when I first looked at the titles and read through these, you are right, Peter, there wasn't that much detail, so I thought they were about that Rocks in a Box •• what was that program? Rocks in a Box. There was •• they were introductory resolutions that we saw last year, I believe, in Babylon or



Lindenhurst.

**COMMISSIONER BARTHA:**

Right. There are some projects like that.

**LEG. VILORIA • FISHER:**

And those are storm remediation projects, are they not? And do they come from the 477 account?

**COMMISSIONER BARTHA:**

Yes, they also can come from that.

**LEG. VILORIA • FISHER:**

Okay. Have those been successful, Charlie?

**COMMISSIONER BARTHA:**

They're in the process of being implemented.

**LEG. VILORIA • FISHER:**

Okay. And so I agree with Legislator O'Leary that it would be good to have more detail so that we know what kind of storm remediation there is so that we know what kinds of methods we are using in different areas and maybe somewhere down the road, we can judge whether the efficacy has been •• what the efficacy of different types of remediation would be. We do spend a lot of money on this.

**COMMISSIONER BARTHA:**

Some of the money associated with this request is for the engineering to progress that to determine exactly how it will be done.

**LEG. VILORIA • FISHER:**

Okay. I see.

**COMMISSIONER BARTHA:**

What's best method of doing that, because you are in very •• in a very restricted location and you have limitations with respect to area, the types of devices that get inserted into existing facilities are useful. If the volume of water is so great, and you don't have the ability to •• you know, when you have area available, that's a good thing, because you have retention basins.

**LEG. VILORIA • FISHER:**

So actually, in these resolutions then, it's not yet determined what type of method you will be using?

**COMMISSIONER BARTHA:**

Not all the details, no, because that's •• we have to go through the engineering associated with it.

**LEG. VILORIA • FISHER:**

And what is the range of choices, Charlie?

**COMMISSIONER BARTHA:**

Probably the most extreme is if you have a retention basin with environmentally appropriate grasses to help treat the water and allow it to be discharged, a series of retention ponds to something, it would a Rocks in the Box concept.

**LEG. VILORIA • FISHER:**

If you have a more limited space to work?

**COMMISSIONER BARTHA:**

Yes.

**LEG. VILORIA • FISHER:**

Okay. So it could include that?

**COMMISSIONER BARTHA:**

Yes.

**LEG. VILORIA • FISHER:**

So it runs the whole gamut. Okay. Thank you.

**CHAIRMAN BINDER:**

Legislator Foley.

**LEG. FOLEY:**

Yeah. Thank you. We're the prime committee, correct?

**CHAIRMAN BINDER:**

Yes.

**LEG. FOLEY:**

Okay. I think we all would agree with the importance of remediating, mitigating, if not eliminating the stormwater run off. To Legislator O'Leary, are you looking for a one cycle •• tabling for one committee cycle for the information that you've requested, if it could be gathered by the next committee meeting?

**LEG. O'LEARY:**

Well, if it takes only one cycle for the Executive Office's Budget people to come back with a report that we requested, I would say, yes, one cycle.

**LEG. FOLEY:**

I just •• I wouldn't want to hold these up for too long, because I'm sure as the Commissioner would say, they're trying to get things ready for the post winter projects, and the sooner we can approve it, the quicker they can move forward with some of these projects after this winter. The request made •• through the Chair, the request made Legislator O'Leary, do you know how long that would take to put that together?

**COMMISSIONER BARTHA:**

I have a summary here, which I can go over with you or leave with you. I'm not aware of the full battery of questions that was presented to the Executive's Budget Office. You indicated Ways and Means, so.

**LEG. O'LEARY:**

No. Budget and Finance.

**COMMISSIONER BARTHA:**

Budget and Finance. You know, we'll certainly work to help answer any of those questions.

**LEG. FOLEY:**

One final point. Since there's a week between committee week and the General Meeting, there could be a possibility, Mr. Chair, that within the next week and a half that information could be available.

**COMMISSIONER BARTHA:**

Yes.

**CHAIRMAN BINDER:**

Mr. Commissioner, do you have information that can be copied and distributed, or ••

**COMMISSIONER BARTHA:**

Yes.

**CHAIRMAN BINDER:**

So, Ellen, if you pick that up, maybe we can make some copies and pass that out. I mean, the question here is this particular fund. Nice number to it, it says 477, we're supposed to clean up our water with it, but what exactly does that mean is something that's a policy issue, and while I agree with Legislator Foley in that moving forward as quickly as possible is important, it's incumbent upon us not to be imprudent in moving ahead quickly because the •• because the ultimate goal of cleaning water, particularly in runoff is so important. And we all know it is. It could be part of the question with •• from brown tide to lobster problems to, you know, shellfish and other questions.

So remediation is absolutely crucial. But at the same time, we have to understand, and really I think it's •• that's why I guess the questions were asked in the Budget Committee and in our •• but I think it's just as important in the Public Works Committee to understand how those Public Works money will be spent, vis a vis, the particular funding mechanism. One of the things you said is that there's an engineering question, so we're going to need to know, I think, is the engineering not in-house, we don't have the expertise, we do have the expertise, how are we funding that? I mean, are we hiring engineers? Is that what we plan to do is outsource that with some expertise we currently don't have in the County?

**COMMISSIONER BARTHA:**

In most cases, we would be outsourcing it, yes.

**CHAIRMAN BINDER:**

In most cases. So in other words, in the cases we're asking the money •• for the money, then we'd be •• we'd be outsourcing it.

**COMMISSIONER BARTHA:**

I believe there's one or two locations there that we're not seeking planning money, and we would

be doing it in•house.

**CHAIRMAN BINDER:**

Okay. I'm just looking at this quickly. Maybe you can tell me which ones we're planning on doing in•house of these.

**COMMISSIONER BARTHA:**

As soon as I get it back.

**CHAIRMAN BINDER:**

Okay.

**COMMISSIONER BARTHA:**

You have me at even more of a disadvantage.

**CHAIRMAN BINDER:**

How come you don't know off the top of your head? See, I knew I had to come here for a reason.



**COMMISSIONER BARTHA:**

If you look at the fourth column from the right, there's a planning estimate. You see the first one is zero, that's a project that we would doing in-house since we don't need any planning funds. And the others have varying degrees of planning funds, because in some cases, we can do part of the work. It's a question of workload and specialization.

**CHAIRMAN BINDER:**

Now, under what column?

**COMMISSIONER BARTHA:**

Planning estimate.

**CHAIRMAN BINDER:**

So there we go, planning estimates. Charlie, left and right. We don't have a problem here in the Legislature understanding left and right.

**COMMISSIONER BARTHA:**

I meant my left, your right.

**CHAIRMAN BINDER:**

We expect a little more. Okay. So now planning estimates. The first one is zero. So we're •• so that one we think we can do in•house. We're going to do that one in•house. Okay. And then the other ones •• we have to •• I have to assume if we're going to spend 110, 145, 120, those are definitely out, I would assume.

**COMMISSIONER BARTHA:**

That's correct.

**CHAIRMAN BINDER:**

And then 15 •• the last two are Champlains Creek and Huntington Harbor are only 15 and 20,000. Are those in•house and we're supplementing it? It seems like a very low number.

**COMMISSIONER BARTHA:**

Well, if you look at the construction cost to County Road 50, Union Boulevard, it's •• the percentage of it is such that we would be doing that virtually, entirely with a consultant. But the final one, that would be being done mostly in•house.

**CHAIRMAN BINDER:**

Okay. So we •• I mean, probably we'd want to know even if it's a small amount of money why we're spending 15 or 20,000 in•house on planning. In other words, if we're doing it all in•house, what do we need the money for?

**COMMISSIONER BARTHA:**

We can get you more of a break down on that.

**CHAIRMAN BINDER:**

Right. I just want to understand that. I mean, what we're going to need to understand is really what the money is going for, specifically. And obviously the reason is I think we're going to probably have more discussion here about the purpose. And maybe for the next meeting, maybe Counsel put a short •• something short together from the original legislation so we can understand exactly what the 477 fund was meant for by the legislation. So we can match that with the information that we get that the Budget Committee has asked for and the breakdown we're looking for in Public Works. So we can understand where all the money is going and if it matches the purpose of fund.

**MS. KNAPP:**

In the Budget Committee earlier today, the committee asked that Budget Review and myself work together to produce sort of a background memo on the use of the 477. Is that the kind of thing ••

**CHAIRMAN BINDER:**

See, we just think alike, we can't help ourselves as Legislators. Republican and Democrat, we all want the same thing, so that's good. First, Legislator Vilorio•Fisher, then Legislator Foley.

**LEG. VILORIA • FISHER:**

Charlie, just the bottom line, the Huntington Harbor project, it looks like this is an ongoing project, is that why the engineering and the planning is less money there? Because I noticed in the column, the second from the right column or the fourth from the right if you count the narrative parts, says that that \$520,000 has already been appropriated in 2001. So is this the second phase of a project?

**COMMISSIONER BARTHA:**

I would ask Bill Hillman, the Chief Engineer, to come up and address some of these details.

**LEG. VILORIA • FISHER:**

We're just commenting on our mike that doesn't work very well.

**MR. HILLMAN:**

Unfortunately, I don't have the backup material to answer that question at this time, but I would surely forward that information to you.

**LEG. VILORIA • FISHER:**

Okay. Thank you.

**LEG. FOLEY:**

Mr. Chairman.

**CHAIRMAN BINDER:**

Sure.

**LEG. FOLEY:**

Commissioner, we've approved these resolutions in the past, have we not?

**COMMISSIONER BARTHA:**

Not for these specific projects, but for this type of work.

**LEG. FOLEY:**

This type of work. Correct. And also from the 477 accounts?

**COMMISSIONER BARTHA:**

Yes.

**LEG. FOLEY:**

Okay. And we've also approved projects like this •• similar to this, rather, utilizing state and/or federal bond act monies, is that not correct?

**COMMISSIONER BARTHA:**

I believe so. We always seek to use that to supplement the County funds.

**LEG. FOLEY:**

Yeah. My only point, Mr. Chairman, is the fact that we have approved the use of •• we've approved these projects in past sometimes using the 477 accounts, other times using other revenue sources. I think that's important for the record to reflect that we have gone down this path already. It doesn't mean that the questions you've raised and Legislator O'Leary have raised shouldn't be answered, but I just would not want to see a long delay in getting these projects underway.

**CHAIRMAN BINDER:**

I appreciate that. I don't know what we've used in 477. I think our use of 477 is somewhat new. So I don't know if we've done projects like these under 477. Maybe BRO can give me an idea if they have knowledge of a history. I'm reading now •• you know, as we are talking, it's giving me the opportunity to read •• trying to speed read through this, and I'm noticing some things that are interesting. You see •• like, in the first one it says, install stormwater treatment unit. I can understand that if we're talking about cleaning the water, but you go down to Huntington, not that I want to do anything with Huntington's money, because I would want •• but it says, new drainage system including retention basin. It doesn't say a treatment unit or something to •• like the Rocks in a Box or something to separate the bad from the good. Guide

rails, curbs, sidewalks, these are all wonderful things that I think we gave to do, I don't know that 477 is the proper place to be doing landscaping, you know, or pavement, if that's not going to •• if that's not going to clean the water. So that's why I'm asking BRO, if •• have we used 477 accounts for things like landscaping, sidewalk repair, you know, other than things that would clean the water.

**MR. SPERO:**

I can only generally, because I don't know the specifics of all the projects, but we have appropriated funds for these remediation type projects. The details of each of those projects, I'm not familiar with.

**CHAIRMAN BINDER:**

We have gone forth •• done 477 for?

**MR. SPERO:**

Stormwater remediation.

**CHAIRMAN BINDER:**

Okay. Well, see, there's a new Sheriff in town. As the Chairman of the Committee, I really do want to look at how the money is going to be used just to make sure that it really does •• and if we have in the past, that doesn't make it right for the future. It's not that I wouldn't want to do the project, obviously, Huntington is an interest to me and also every other project around Suffolk County, but, of course, my backyard home town, you know, has particular interest, and I wouldn't want to stop the program. I would want to see all these things done that are listed

here. But at the same time, I want to make sure that we properly use the funds so that the 477 account is available for what we meant it for.

Now, one of things I want to ask, Charlie, when we do these projects, I would assume we can only do them on County roads. A lot of the roads throughout the County on the North and South Shore that the water, particularly stormwater runoff leads to, you know, either the Sound or Ocean or the bays, all the water that's running off often goes through town roads and state roads. And here we are with a 477 account with literally millions of dollars and an opportunity to try to clean the water. Do we only focus on County roads where County roads affect the water? And is there a way •• if we do only do that now, is there a way that we can find a way to use 477 in conjunction with either the state or the towns? I'm talking about clean up, I'm not talking guide rails, guardrails, landscaping, other things. I don't think that the County needs to put landscaping on, you know, a state road. That's there problem, or guide rails.

But in terms of technology, particularly for filtering water and making sure that the water that does get to the bays and the harbors and, you know, the major bodies of water are clean, have we •• are we doing that •• where is the program?

**COMMISSIONER BARTHA:**

The enabling legislation does provide opportunities for local municipalities to apply and receive funding from the quarter percent money for their own water quality projects. And it's up to the Legislature ultimately to approve which •• where that money is allocated to.

**CHAIRMAN BINDER:**

But we don't reach out. In other words, let's say we looked at a particular bay and realized that we had either brown tide problems out east or, you know, we know we had a big lobster die•off



somewhere and it's been particularly hard hit maybe somewhere along the •• you know, North Shore, and we realize let's say that it's •• 25A runs right up against it, so maybe if we can get the state to work with us •• waiting for them to call us, it's kind of a waste. Here it is, stormwater is running off without us having this cooperative opportunity, should we be reaching out?

**COMMISSIONER BARTHA:**

Well, we have. And we do that periodically, we reach out to the municipalities, make them aware of the program. And, you know, there's been some focus on the landscaping aspects, the landscaping is •• again, an enabling resolution, specifically talks about landscaping, and it's really landscaping that's incidental to the recharge basin to basically conceal it from the neighborhood, and the guide rails are for similar type protection. But this is •• we will get you more complete information.

**CHAIRMAN BINDER:**

Well, but right. But if we put in a basin, that doesn't necessarily stop pollutants that are runoff pollutants from making it into the harbor, as I would think. I mean, you are still going to get •• you're still going to get the runoff, particularly if you're close to the water itself, there may be a little bit of filtration through the ground itself. It's going to have to get to the ground. But still, the pollutants make it to the water.

**COMMISSIONER BARTHA:**

It depends on the type of pollutant. Particulates would be filtered out by the ground, the soil.

**CHAIRMAN BINDER:**

Right.

**COMMISSIONER BARTHA:**

Similar, serious pollutants would not be, and that's something that we •• for example, we worked with the Health Department on the Rocks in the Box type solution, because in many areas, the only problem we have is the particulates rather than any real contamination. Other areas, you have a lot of runoff. Lawn fertilizers, as you know, contain a tremendous amount of nitrogen. You could do more for the harbors and the ocean by getting people to stop using fertilizer than by approving sewage treatment plants.

**CHAIRMAN BINDER:**

Okay. So we'll start with your lawn.

**COMMISSIONER BARTHA:**

Brown grass.

**CHAIRMAN BINDER:**

Mr. Commissioner, I'm going to take a picture this summer of your lawn, and we're going to check out to see what it looks like. And the greener it is, you know.

**COMMISSIONER BARTHA:**

I will be in trouble.

**CHAIRMAN BINDER:**

Right. We don't want to go there. Legislator Vilorio • Fisher then Legislator O'Leary.

**LEG. VILORIO • FISHER:**

I just have a question for Budget Review. When we are reimbursed, I'm looking at the last column here, and there are several reimbursement amounts that are listed from DEC, does that go into the General Fund, Jim, or does it go into the 477 account?

**MR. SPERO:**

No, it would go into the Capital Project account to reimburse •• you know, to pay for the cost of the improvement. I believe that's where the money would go.

**LEG. VILORIO • FISHER:**

Okay. But these resolutions using the 477, money, okay.

**MR. SPERO:**

Right. But if I'm reading this correctly, on Huntington Harbor, the amount that you're taking

from 477 is 500,000. The remaining funds are going to come from the federal aid, from the New York DEC monies.

**LEG. VILORIA • FISHER:**

Okay. So the resolution has already taken into consideration that there's going to be a reimbursement. So it's not taking the full amount out of 477.

**MR. SPERO:**

Right.

**LEG. VILORIA • FISHER:**

Okay. Thank you.

**MR. SPERO:**

Just a follow up on a previous question. Kevin's been going through some of our papers on the 477 funding, Resolution 702 of 2003 transferred \$1,150,000 for remediation programs for the South Shore tributaries, that's on the Carlls River, Orowoc Creek, Patchogue River, Connetquot River, Sampawams Creek and Santapoque Creek.

**CHAIRMAN BINDER:**

Legislator O'Leary.

**LEG. O'LEARY:**

I was going to raise another point, but the point that you just raised, Jim, with respect to the 2003 resolution with the transfer off monies for 477 account, is that the most recent one? Has there been any since, or is that the one that comes to mind because of the reports in front of you?

**MR. SPERO:**

It's one we found going through our papers here.

**LEG. O'LEARY:**

So let me understand this correctly. Just to follow up Legislator Foley's point, that, yes, this has been done in the past with respect to the 477 fund, but the last time it was done was in 2003?

**MR. SPERO:**

I can't answer that right now, we'd have to do a little more checking.

**LEG. O'LEARY:**

The reason why I raised that point before •• I make the point I wanted to make with my initial taking of the mike was because you just raised that issue. You went back to 2003 to find an example of the of transferring of funds from 477 and amending the Capital Budget. Would you

do that, please? Would you do some research to determine just how often this has occurred in the past?

**MR. SPERO:**

As part of our memo, we'll list the resolutions that have been approved for this type project.

**LEG. O'LEARY:**

That sheds a little more light on the point that I raised earlier on in this committee. We have before us six resolutions attempting to utilize the monies in the 477, and if it hasn't been used that •• it's been used very infrequently, there are questions that came up in Budget and Finance with respect to that. And it's for that reason that I just want to point out is the reason why we're looking to •• or I will look to table these resolutions until such time as the matter is clarified.

**LEG. KENNEDY:**

Mr. Chair.

**CHAIRMAN BINDER:**

Legislator Kennedy.

**LEG. KENNEDY:**

Just a quick question. I direct this question, I guess, to both BRO and to your own Counsel, the briefing memo that's going to be compiled for us, will that speak to the creation of the fund itself, in other words, the enabling legislation with the purpose clause or what are authorized legitimate purposes?

**MS. KNAPP:**

Again, this only came up at this morning's meeting, and Budget Review and myself have not had an opportunity to confer about how. But I think it's probably fair to say that I'll prepare the part that talks about the enabling legislation and requirements contained in Article 12, and then Budget Review will speak to the amount of money that is available and perhaps to the past uses of that money.

**LEG. KENNEDY:**

So, but the fund then created was by virtue of a referendum?

**MS. KNAPP:**

Oh, yes. This is the Article 12 drinking water protection money that you are talking about.

**LEG. KENNEDY:**

So we should have specific language as far as use or?

**MS. KNAPP:**

Yes.

**LEG. KENNEDY:**

Something that defines it.

**MS. KNAPP:**

Actually, the language is very specific in parts and a little more general in other parts.

**LEG. KENNEDY:**

Okay. Thank you.

**CHAIRMAN BINDER:**

Any more questions? If not, we're going to go to the agenda where I think we have discussed most of it already.

## **TABLED RESOLUTIONS**

**2128•04. Authorization of alteration of rates for Davis Park Ferry Company.  
(PRESIDING OFFICER)**



**LEG. O'LEARY:**

Motion to table.

**CHAIRMAN BINDER:**

Motion to table by Legislator O'Leary.

**LEG. FOLEY:**

I'll second the motion.

**CHAIRMAN BINDER:**

Seconded by Legislator Foley. All those in favor? Opposed?

**LEG. O'LEARY:**

There's a typo there, Mr. Chair. The General Meeting, I believe, is 1/25.

**CHAIRMAN BINDER:**

Yes, 1/25. **Tabled. (VOTE:5•0•0•1) (Not present; Legis. Carpenter)**

## **INTRODUCTORY RESOLUTIONS**

**2297•04. Calling for a public hearing upon a proposal to form Suffolk County Sewer District No. 16 • Yaphank. (COUNTY EXEC)**

**LEG. O'LEARY:**

Motion to approve.

**CHAIRMAN BINDER:**

Motion to approve by Legislator O'Leary, seconded by Legislator Kennedy.

**LEG. FOLEY:**

On the motion, Mr. Chairman.

**CHAIRMAN BINDER:**

On the motion, Legislator Foley.

**LEG. FOLEY:**

Thank you. Commissioner, I read the backup and it comprises about 1033 acres of property in

Yaphank •• in the Hamlet of Yaphank. I know this is a public hearing, and there's a long lengthy process that still has to be followed through, but what I would like prior to the General Meeting is a •• is a map of the •• that depicts the meets and bounds that you describe in the •• in the bill. So it would be helpful if we could have a map.

**COMMISSIONER BARTHA:**

Certainly.

**LEG. FOLEY:**

Some of us learn •• some of us learn by reading, and others of us learn by seeing pictures. So that would be helpful.

**CHAIRMAN BINDER:**

My kids say the same thing, Legislator Foley.

**LEG. FOLEY:**

True of adults too.

**LEG. O'LEARY:**

I have a question.

**CHAIRMAN BINDER:**

Legislator O'Leary.

**LEG. O'LEARY:**

Charlie, this proposal to form a sewer district, a municipal, in Yaphank, is that tied into the Silver Cup project in Yaphank?

**COMMISSIONER BARTHA:**

Yes, that would enable that to apply to the Sewer Agency for connection to the treatment plant.

**LEG. O'LEARY:**

That's what I thought.

**COMMISSIONER BARTHA:**

And then eventually come to the Legislature for approval.

**LEG. O'LEARY:**

Okay. All right. Thank you.

**CHAIRMAN BINDER:**

Any other comments? If not, we have a motion and a second, 2297. All in favor? Opposed?  
2297 is **approved. (VOTE:5•0•0•1) (Not present; Legis. Carpenter).**

**2298•04. Amending the 2004 Operating Budget by appropriating surplus funds from 221 Fund Balance and amending the 2004 Capital Budget and Program in connection with planning for improvements to Suffolk County Sewer District No. 21 SUNY at Stony Brook. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Motion by Legislator Viloría•Fisher, seconded by Legislator Foley.

**LEG. O'LEARY:**

On the motion.

**CHAIRMAN BINDER:**

On the motion, Legislator O'Leary.

**LEG. O'LEARY:**

BRO, is there a problem with amending a budget that's no longer in existence, the 2004 budget?

**MR. SPERO:**

It should be amended for the 2005 budget. Fiscal 2004 has ended. So this resolution should be corrected.

**LEG. O'LEARY:**

So it should be corrected to read amending the '05 budget, correct?

**MR. SPERO:**

Correct.

**CHAIRMAN BINDER:**

It says 2004. Right. And even the resolved actually amend the 2004 adopted Operating Budget, and that's a problem.

**LEG. FOLEY:**

Chairman, can we hear from the Commissioner as to how we could remedy this?

**COMMISSIONER BARTHA:**

We've had conversations with the County Exec's Budget Office, they're aware of that, and they will submit a technical correction.

**LEG. O'LEARY:**

Motion to table.

**LEG. FOLEY:**

To be ready for the General Meeting?

**COMMISSIONER BARTHA:**

Yes.

**CHAIRMAN BINDER:**

What we'll do •• I would suggest, as Legislator O'Leary jumped to, we'll table it here, and you should just do it in a form of a CN, because either way you're going to need a CN. You're not going to have •• it's not going to be laid on the table long enough with the amended •• oh, no. It's two weeks. I forget we have two weeks.

**LEG. VILORIA • FISHER:**

If it's a technical correction ••

**CHAIRMAN BINDER:**

You know what?

**LEG. O'LEARY:**

DWR?

**LEG. VILORIA • FISHER:**

Actually, Mr. Chair, if it's a technical correction, can't we just approve it here and have them do the technical change?

**CHAIRMAN BINDER:**

Well, it's more than technical. If you think about it, we're talking about ••

**LEG. VILORIA • FISHER:**

Well, it could have been a scribenor's error to put 2004 instead of 2005. Was it?

**COMMISSIONER BARTHA:**



I couldn't answer that question.

**CHAIRMAN BINDER:**

It literally talks about a different budget. It's not, you know, and or the, it's actually ••

**LEG. VILORIA • FISHER:**

Four instead of five.

**CHAIRMAN BINDER:**

I know, but that's a big difference. It's a whole year.

**LEG. VILORIA • FISHER:**

I think Henry is trying to say something.

**MR. BARTON:**

I don't know if this helps in the discussion, Mr. Chairman, but I've been working with Mr. Zwirn to update some of these resolutions, and I anticipate having that process completed in the next day or two. So we should have the correct copies filed. There were a couple that were held over from last year that need to be adjusted with the new budget year.

**LEG. O'LEARY:**

Is this one of them?

**MR. BARTON:**

Yes.

**LEG. FOLEY:**

And it's not a substantive change, so there's not a lot of leg work on this. I mean, I would agree to table it if, in fact, there has to be sizable changes, but it's just ••

**CHAIRMAN BINDER:**

I could see what we have here. It was laid on table in 2004, so what they were thinking obviously was it would happen quickly, do it in 2004, and I guess that's the question when you go over to a new fiscal year. Legislator O'Leary made a motion to discharge without recommendation, I would second that. I don't think anybody is going to have a problem on the floor when •• if the question comes up as to why without recommendation, we'll make it clear that it had to just be changed technically, and that there wasn't a problem with the content ••

**LEG. FOLEY:**

Let me, if I may, Mr. Chairman.

**CHAIRMAN BINDER:**

Sure, Legislator Foley.

**LEG. FOLEY:**

Not to contradict what I mentioned earlier, but it does speak of amending the '04 Capital Budget, s it really isn't just a change of '04 to '05. What in the '05 Capital Budget would you be amending that would be different from what you're amending in the '04 budget?

**LEG. O'LEARY:**

It's the Operating Budget that's being amended.

**LEG. FOLEY:**

Well, when I read 2298, it says Capital as well.

**COMMISSIONER BARTHA:**

It's a combination, yes.

**CHAIRMAN BINDER:**

There's both in there.

**LEG. FOLEY:**

So what would be amended in the '05 Capital Program?

**CHAIRMAN BINDER:**

The question if I could follow up and help out, it's •• right. It can't be same thing, because the budget is obviously different, right.

**COMMISSIONER BARTHA:**

It's moving the funds into Capital since we won't be able to spend them before the end of the year.

**LEG. FOLEY:**

Read. But when I read the title, it mentions amending the '04 Capital Budget and Program. So know it's '05, you'll be amending the '05 Capital Budget. Is there an offset, or is there just simply a transfer?

**COMMISSIONER BARTHA:**

It's a transfer.

**LEG. FOLEY:**

Okay. Okay. Fine.

**CHAIRMAN BINDER:**

Right. And the question, Legislator Foley, is where they are going to actually transfer •• I would assume they're going to probably use the same funds any way, they'll just be different numbers from different budgets, but I think if we discharge it without recommendation, the statement is made that we're not ready to until they make the fix. We have a motion and a second. I made the second on a discharge without recommendation. All those in favor? Opposed? 2298 is **discharged without recommendation. (VOTE:5•0•0•1) (Not present; Legis. Carpenter)**

**2299•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program, and appropriating funds in connection with storm remediation improvements for CR 63 Peconic Avenue, at Peconic River. (COUNTY EXEC)**

**LEG. O'LEARY:**

Motion to table.

**CHAIRMAN BINDER:**

Motion to table by Legislator O'Leary, I'll second that.

**LEG. FOLEY:**

Just on the motion, Mr. Chairman.

**CHAIRMAN BINDER:**

On the motion, Legislator Foley.

**LEG. FOLEY:**

Thank you. Since we're meeting once a month for the first five months of the year, there will be plenty of time between now and the next committee meeting. So I think there will be enough time for the questions to be answered. And I will certainly go along as I would with any committee that the Chair and others wish to have a resolution tabled for one cycle. But I hope that we can move in February. But given that the Chair and others have asked for information, and I think it would be readily available by the next committee meeting, I would hope that we can move this forward at the next committee meeting. But I certainly will agree to table for one cycle.

**CHAIRMAN BINDER:**

I would think that with the amount of time, as you say, that they will be able to do that, but I think our ability to move it is going to be more dependant on information that comes from the outside then what we generate in here. So as long as the information is forthcoming and we're comfortable •• in the end, we may not be comfortable with the program's use of 477, because really this is going to be •• this is a policy statement, and especially when you have six of these, with the amount of money we're talking about, it's literally million of dollars, I think what we need to do is look at this as a policy statement by Legislators and how we want the 477 from this

moment forward to go forward; where do we want the money, what kind of money do we want to use for these remediations. I don't think there's a question as to whether Legislators want to see the remediation. The question is what the funding source, and that really is a policy question, and that's why we're here, that's why we have the purse strings. So we have to do that. And so that I don't know that in the end we will move it in this form, and I think a lot of it is going to depend on the information that we get.

**LEG. VILORIA • FISHER:**

Mr. Chair, we should be anticipating then the enabling legislation to •• the language of that to be forwarded to us by Counsel?

**CHAIRMAN BINDER:**

Right. I think what we're going to get from Counsel and BRO is more of a summary. I don't •• we could probably get that online if you want to •• you know, we can get our own bills.

**LEG. VILORIA • FISHER:**

I meant a kind of, you know, executive summary for the situation.

**CHAIRMAN BINDER:**

Right. We're going to get a good understanding of what the intent was, why and how we passed it and what the provisions are. We'll understand that •• maybe we'll debate it, because even with that, we might have different ideas to whether it should be applied in these cases.

**LEG. VILORIA • FISHER:**

It's always been my understanding that this is what we used storm water remediation monies for, so I think looking at the language and the excerpt as presented by Counsel, we could look at it as a policy statement.

**CHAIRMAN BINDER:**

And the other •• and I think •• and this is why we have committees is that we are going to have the opportunity then to take this information and among ourselves debate, discuss, it might not be a debate, but it could be, as to what we want to do with this money going forward and how we want to see it spent and how we want to funds these remediations, do we want to split them up, do we want to say certain thing should be 477, other things not. That will be what we're going to talk about going forward. Any other comments? If not, we have a motion and a second to table. All in favor? Opposed? IR 2299 is **TABLED. (VOTE:5 • 0 • 0 • 1) (Not present; Legis. Carpenter)**

**2300 • 04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program, and appropriating funds in connection with storm remediation improvements for CR 80 Montauk Highway, at Oceanview Road. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second, same vote. **TABLED. (VOTE:5 • 0 • 0 • 1) (Not present; Legis. Carpenter)**



**2301•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program, and appropriating funds in connection with storm remediation improvements for CR 94A Center Drive South at Little Peconic River. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second, same vote. **TABLED. (VOTE:5•0•0•1) (Not present; Legis. Carpenter)**

**2302•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program, and appropriating funds in connection with storm remediation improvements for CR 96 Great East Neck Road at Evergreen Street. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second, same vote. **TABLED. (VOTE:5•0•0•1) (Not present; Legis. Carpenter)**

**2303•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program, and appropriating funds in connection with storm remediation improvements for CR 50 Union Boulevard at Champlins Creek. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second, same vote. **TABLED (VOTE:5•0•0•1) (Not present; Legis. Carpenter).**

**2304•04. Amending the Adopted 2005 Operating Budget to transfer funds from Fund 477 Water Quality Protection, amending the 2005 Capital Budget and Program, and appropriating funds in connection with storm remediation improvements for CR 35 at Huntington Harbor. (COUNTY EXEC)**

**CHAIRMAN BINDER:**

Same motion, same second, same vote. **TABLED. (VOTE:5•0•0•1) (Not present; Legis. Carpenter)**

**CHAIRMAN BINDER:**

Is there anything else to come before the committee? Anyone else to come? Legislator O'Leary.

**LEG. O'LEARY:**

I just want to comment that had I been Chairing this meeting, it would have been over about 20 minutes ago.

**CHAIRMAN BINDER:**

I have to ask, Legislator O'Leary, if you were Chairing this meeting, would you have spoken as much as you did?

**LEG. O'LEARY:**

No.

**LEG. FOLEY:**

Mr. Chairman, if I were still Chair, it would have been another half an hour.

**CHAIRMAN BINDER:**

So I am the •• I am the compromise candidate. I'm the compromise candidate. I make a motion to adjourn, seconded by Legislator O'Leary. All in favor? Opposed? Adjourned.

**( \* THE MEETING WAS ADJOURNED AT 2:30 P.M. \* )**

\\_ \\_ **DENOTES BEING SPELLED PHONETICALLY**